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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,365	03/28/2001	Jeffrey E. Callen	4173-00005	4337

26710 7590 05/19/2003

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EXAMINER

LUK, EMMANUEL S

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/819,365

Applicant(s)

CALLEN ET AL.

Examiner

Emmanuel S. Luk

Art Unit

1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 3/25/03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-5, 10 and 11 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Schad (US 4,422,995).

Schad clearly teaches a multi shot injection mold having first shot cavity (25'), a second shot cavity (32), a rotating turret (13) that acts as the indexing plate, an ejector station (Fig. 1), first, second and third core retainers (20), the turret rotates in 120° increments (Fig. 1) (Col. 6, lines 53-59), the means for advancing the turret via the turret rotates to the positions (Col. 6, lines 38-47), the stripper (34) being the ejector plate that is removes the product from the cores.

The turret rotates 120° due to only three positions available in the embodiment of Fig. 1. Means for advancing the turret is inherently taught due to the turret advancing

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schad in view of Julian et al and Rees et al.

Schad teaches the claimed apparatus as shown above. Schad fails to teach the ejector plate on guide rods with stops, ejector cradle, a limit switch and overmolded pen barrels.

Julian teaches the stripping motion of the products (62) from the cores (28) via stripper plate (18) that are on guide rods (42). The stripping motion is advanced via pushrod (114) and moves the stripper to the fullest extent by the extension of the pushrod.

In regards to the ejector cradle, Schad teaches the stripper plate and it is merely a change in shape of the plate to form a 'cradle' and still retain the function of ejecting the product from the cores. In re Dailey et al, 149 USPQ 47 (CCPA 1966).

In regards to the limit switch, both Schad and Julian teach the movement of the stripper to eject the product and the subsequent return to the original position. It would have been obvious to employ some sort of control for the movement of the strippers and

a limit switch is one commonly used control device. Rees teaches limit switches (45) that for activation of stripper plate (18) movement (Col. 2, lines 51-66).

In regards to the pen barrels, this shape of the mold is merely a change in shape from the mold cavity taught by Schad. In re Dailey et al, 149 USPQ 47 (CCPA 1966).

It would have been obvious to one of ordinary skill in the art to modify Schad with a guide rod as taught by Julian because it ensures the alignment of the stripper movement and a limit switch taught by Rees because it ensures when the stripper is activated.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Farrell, De Rossi and Tate et al.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel S. Luk whose telephone number is (703) 305-1558. The examiner can normally be reached on Monday through Friday 8 to 4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on (703) 308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.

E.L.
May 14, 2003


W. L. WALKER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700